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§ 1.* 7 Va.-W. Va. Enc. Dig. 822; 14 Va.-W. Va. Enc. Dig. 569; 15 Va.-W. Va. Enc. Dig. 525.]

6. Counties (§ 198*)—Claims—Interest.—Under Code 1904, § 834, cl. 2, providing for the examination, settlement, and allowance of accounts chargeable against a county, and declaring that no interest shall be paid by any county on a county warrant, and under the rule that a claim against the state or a county, in the absence of statute, does not bear interest, interest was not recoverable against a county for nonpayment of its share of certain claims of a city for the maintenance of a jointly owned bridge..

[Ed. Note.—For other cases, see Counties, Cent. Dig. § 335; Dec. Dig. § 198.* 3 Va.-W. Va. Enc. Dig. 687.]

7. Bridges (§ 21*)—County and City—Obligations—Statutes.—Where a city and county were jointly authorized to purchase, own, and maintain a bridge by Acts 1881-82, c. 13, the rights, duties, and liabilities of the city and county with reference to the property so jointly owned were not those which would attach to natural persons similarly situated, but were only those conferred and imposed by statute.

[Ed. Note.—For other cases, see Bridges, Cent. Dig. §§ 48-55; Dec. Dig. § 21.* 2 Va.-W. Va. Enc. Dig. 623; 14 Va.-W. Va. Enc. Dig. 176; 15 Va.-W. Va. Enc. Dig. 144.]

Error to Circuit Court, Amherst County.

Action by the City of Lynchburg against the County of Amherst. From a judgment for plaintiff for \$1,271.53, plaintiff brings error. Reversed and remanded.

N. C. Manson, Jr., of Lynchburg, for plaintiff in error.

Whitehead & Whitehead, of Lynchburg, and *O. L. Evans* and *Aubrey Strode*, both of Amherst, for defendant in error.

NEWTON *v.* WHITE.

Jan. 15, 1914.

[80 S. E. 561.]

1. Landlord and Tenant (§ 157*)—Improvements by Tenant—Actions for Compensation—Parties.—Where one of two lessees transferred his interest in the lease to the other, the transferee could sue on the lessor's covenant to pay the value of a building erected by the lessees without joining his transferror as a party.

[Ed. Note.—For other cases, see Landlord and Tenant, Cent. Dig. §§ 571, 572, 574-582, 584-600, 602-607; Dec. Dig. § 157.* 9 Va.-W. Va. Enc. Dig. 129.]

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

2. Parties (§ 10*)—One Suing for Himself and Others.—A lessee, who executed a deed of trust to his interest under the lease to secure a debt, could sue in his own behalf and in behalf of the mortgagee on the lessor's covenant to pay the value of a building erected by the lessees.

[Ed. Note.—For other cases, see Parties, Cent. Dig. § 12; Dec. Dig. § 10.* 10 Va.-W. Va. Enc. Dig. 747; 14 Va.-W. Va. Enc. Dig. 808; 15 Va.-W. Va. Enc. Dig. 773.]

3. Landlord and Tenant (§ 157*)—Improvements by Tenant—Actions—Pleading.—Where by a lease lessees covenanted to erect and maintain on the demised premises a building, and the lessor covenanted that at the termination of the lease he would take such building at a valuation to be agreed upon as therein provided, a special count in assumpsit, with which the lease was filed as an exhibit, was not demurrable as failing to show a promise by the lessor or any consideration therefor.

[Ed. Note.—For other cases, see Landlord and Tenant, Cent. Dig. §§ 571, 572, 574-582, 584-600, 602-607; Dec. Dig. § 157.* 9 Va.-W. Va. Enc. Dig. 129.]

4. Landlord and Tenant (§ 157*)—Improvements by Tenant—Liability of Landlord.—Under a lease by which the lessees covenanted to erect a building on the demised premises, costing not more than \$3,000, and the lessor covenanted that at the termination of the lease he would take the building at a fair valuation to be determined by two valuers and an umpire, who should consider what would be the cost at the time of valuation of erecting the building and then deduct therefrom a reasonable allowance for wear and tear since its erection, though the lessor's liability was limited to \$3,000, where the valuers found the cost at the time of valuation to be \$3,680, and a reasonable allowance for wear and tear to be \$700, they properly deducted such allowance from the cost so found instead of deducting it from \$3,000.

[Ed. Note.—For other cases, see Landlord and Tenant, Cent. Dig. §§ 571, 572, 574-582, 584-600, 602-607; Dec. Dig. § 157.* 9 Va.-W. Va. Enc. Dig. 129.]

5. Landlord and Tenant (§ 157*)—Improvements by Tenant—Liability of Landlord.—Where by a lease the lessor covenanted that at the termination of the lease he would take a building to be erected by the lessees at a fair valuation to be determined as therein provided, and at the expiration of the original term the lessee was permitted to hold over from year to year for six years, the lessor's promise to pay for the building was thereby continued to the termination of the relation of landlord and tenant.

[Ed. Note.—For other cases, see Landlord and Tenant, Cent. Dig.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

§§ 571, 572, 574-582, 584-600, 602-607; Dec. Dig. § 157.* 9 Va.-W. Va. Enc. Dig. 129.]

6. Appeal and Error (§ 1050*)—Harmless Error—Admission of Evidence.—In an action against an executor, if the reading of the will in evidence was unnecessary and entailed a useless expense as claimed, it did not constitute a reversible error.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 1068, 1069, 4153-4157, 4166; Dec. Dig. § 1050.* 1 Va.-W. Va. Enc. Dig. 592; 14 Va.-W. Va. Enc. Dig. 92; 15 Va.-W. Va. Enc. Dig. 68.]

7. Appeal and Error (§ 1050*)—Harmless Error—Admission of Evidence.—In an action on a lessor's covenant to pay the value of a building erected by lessees as found by valuers to be appointed as therein provided in which judgment was recovered for the amount fixed by the valuers, the admission of evidence that defendant claimed to own the building and the admission of plaintiff's testimony as to the cost of the building and his estimate as to its value were harmless.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 1068, 1069, 4153-4157, 4166; Dec. Dig. § 1050.* 1 Va.-W. Va. Enc. Dig. 592; 14 Va.-W. Va. Enc. Dig. 92; 15 Va.-W. Va. Enc. Dig. 68.]

Error to Law and Chancery Court of City of Norfolk.

Action by Ira B. White, suing in behalf of himself and another, against William Loyall Newton, surviving executor of George Newton, Judgment for plaintiff, and defendant brings error. Affirmed.

Robert W. Tomlin, of Norfolk, for plaintiff in error.

J. Sidney Smith, of Norfolk, for defendant in error.

REICHENSTEIN *v.* VIRGINIA RY. & POWER CO.

Jan. 15, 1914.

[80 S. E. 564.]

1. Appeal and Error (§ 867*)—Review—Allowance of New Trial.—Under Acts 1891-92, c. 609, amending Code 1887, § 3484, so as to provide that, when any case at law is tried by a jury, and a party excepts to the judgment of the court in granting a new trial, the appellate court shall look first to the evidence and proceedings on the first trial, and, if it discovers that the court erred in setting aside the verdict, it shall set aside and annul all proceedings subsequent to the verdict, the appellate court, where a verdict for plaintiff was set aside, and a judgment on a second trial was rendered by the

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.